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8 Attorneys for Plaintiffs,  
9 LAFACE RECORDS LLC; WARNER BROS.  
10 RECORDS INC.; UMG RECORDINGS, INC.;  
11 MAVERICK RECORDING COMPANY; ARISTA  
12 RECORDS LLC; and ZOMBA RECORDING LLC

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

16 LAFACE RECORDS LLC, a Delaware limited  
17 liability company; WARNER BROS.  
18 RECORDS INC., a Delaware corporation;  
19 UMG RECORDINGS, INC., a Delaware  
20 corporation; MAVERICK RECORDING  
21 COMPANY, a California joint venture;  
22 ARISTA RECORDS LLC, a Delaware limited  
23 liability company; and ZOMBA RECORDING  
24 LLC, a Delaware limited liability company,

25 Plaintiffs,

26 v.

27 MAYZABEEN KHAN,

28 Defendant.

CASE NO. 3:08-CV-01043-PJH

**FIRST AMENDED COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

**JURISDICTION AND VENUE**

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. §101 *et seq.*).

2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. §1331 (federal question); and 28 U.S.C. §1338(a) (copyright).

3. This Court has personal jurisdiction over the Defendant, Mayzabeen Khan, and venue in this District is proper under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400, because, on information and belief, the Defendant resides in this District and/or a substantial part of the acts of infringement complained of herein occurred in this District.

**PARTIES**

4. Plaintiff LaFace Records LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

5. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.

6. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.

7. Plaintiff Maverick Recording Company is a joint venture between SR/MDM Venture Inc. and Maverick Records LLC, organized and existing under the laws of the State of California, with its principal place of business in the State of California.

8. Plaintiff Arista Records LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

9. Plaintiff ZOMBA RECORDING LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

10. Plaintiffs are informed and believe that Defendant is an individual who resided within this District at the time of the infringement complained of herein. Upon information and belief, Defendant may still be found in this District.

## COUNT I

### INFRINGEMENT OF COPYRIGHTS

11. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including but not limited to, all of the copyrighted sound recordings on **Exhibit A** to this Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights, for which the Plaintiffs are the owners as specified on Exhibit A.

13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

14. Much of the unlawful distribution of copyrighted sound recordings over the Internet occurs via "peer-to-peer" ("P2P") file copying networks or so-called online media distribution systems. P2P networks, at least in their most popular form, refer to computer systems or processes that enable Internet users to search for files (including audio recordings) stored on other users' computers and transfer exact copies of files from one computer to another via the Internet, which can include both downloading an exact copy of that file onto the user's own computer and distributing an exact copy of that file to other Internet users on the same P2P network. P2P networks enable users who otherwise would have no connection with, or knowledge of, each other to provide a sophisticated search mechanism by which users can locate these files for downloading and to reproduce and distribute files off of their personal computers.

1           15. Users of P2P networks who distribute files over a network can be identified by using  
2 Internet Protocol ("IP") addresses because the unique IP address of the computer offering the files  
3 for distribution can be captured by another user during a search or a file transfer. Users of P2P  
4 networks can be identified by their IP addresses because each computer or network device (such as a  
5 router) that connects to a P2P network must have a unique IP address within the Internet to deliver  
6 files from one computer or network device to another. Two computers cannot effectively function if  
7 they are connected to the Internet with the same IP address at the same time.

8           16. Plaintiffs identified an individual using Ares on the P2P network AresWarez at IP  
9 address 169.233.10.242 on October 16, 2007 at 19:20:17 EDT distributing 85 audio files over the  
10 Internet. The Defendant was identified as the individual responsible for that IP address at that date  
11 and time. Plaintiffs are informed and believe that as of October 16, 2007, Defendant, without the  
12 permission or consent of Plaintiffs, had continuously used, and continued to use, a P2P network to  
13 download and/or distribute to the public the Copyrighted Recordings. Exhibit A identifies the date  
14 and time of capture and a list of Copyrighted Recordings that Defendant has, without the permission  
15 or consent of Plaintiffs, downloaded and/or distributed to the public. Through Defendant's  
16 continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted  
17 Recordings, which acts Plaintiffs believe to have been ongoing for some time, Defendant has  
18 violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute  
19 infringement of Plaintiffs' copyrights and exclusive rights under copyright.

20           17. In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and  
21 believe that Defendant has, without the permission or consent of Plaintiffs, continuously downloaded  
22 and/or distributed to the public additional sound recordings owned by or exclusively licensed to  
23 Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are  
24 ongoing.

25           18. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
26 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
27 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
28

1 These published copies were widely available, and each of the published copies of the sound  
2 recordings identified in Exhibit A was accessible by Defendant.

3 19. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
4 willful and intentional, in disregard of and indifference to the rights of Plaintiffs.

5 20. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
6 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for  
7 Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to  
8 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

9 21. The conduct of Defendant is causing and, unless enjoined and restrained by this  
10 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated  
11 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502  
12 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing  
13 Plaintiffs' copyrights, and ordering Defendant to destroy all copies of sound recordings made in  
14 violation of Plaintiffs' exclusive rights.

15 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

16 1. For an injunction providing:

17 "Defendant shall be and hereby is enjoined from directly or indirectly  
18 infringing Plaintiffs' rights under federal or state law in the  
19 Copyrighted Recordings and any sound recording, whether now in  
20 existence or later created, that is owned or controlled by Plaintiffs (or  
21 any parent, subsidiary, or affiliate record label of Plaintiffs)  
22 ("Plaintiffs' Recordings"), including without limitation by using the  
23 Internet or any online media distribution system to reproduce (i.e.,  
24 download) any of Plaintiffs' Recordings, to distribute (i.e., upload) any  
25 of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings  
26 available for distribution to the public, except pursuant to a lawful  
27 license or with the express authority of Plaintiffs. Defendant also shall  
28 destroy all copies of Plaintiffs' Recordings that Defendant has  
downloaded onto any computer hard drive or server without Plaintiffs'  
authorization and shall destroy all copies of those downloaded  
recordings transferred onto any physical medium or device in  
Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording  
pursuant to 17 U.S.C. § 504.

3. For Plaintiffs' costs in this action.

4. For Plaintiffs' reasonable attorneys' fees incurred herein.
5. For such other and further relief as the Court may deem just and proper.

Dated: June 4, 2008

HOLME ROBERTS & OWEN LLP

By: 

DAWNIELL ZAVALA

Attorney for Plaintiffs

LAFACE RECORDS LLC; WARNER  
BROS. RECORDS INC.; UMG  
RECORDINGS, INC.; MAVERICK  
RECORDING COMPANY; ARISTA  
RECORDS LLC; and ZOMBA  
RECORDING LLC

# **EXHIBIT A**

**EXHIBIT A****MAYZABEEN KHAN**

<b>IP Address:</b> 169.233.10.242 2007-10-16 19:20:17 EDT	<b>CASE ID#</b> 145151486
<b>P2P Network:</b> AresWarez	<b>Total Audio Files:</b> 85

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
LaFace Records LLC	Pink	Can't Take Me Home	Can't Take Me Home	279-958
Warner Bros. Records Inc.	Faith Hill	Breathe	Breathe	276-629
UMG Recordings, Inc.	Nelly Furtado	Say It Right	Loose	387-509
Maverick Recording Company	Alanis Morissette	Hand in My Pocket	Jagged Little Pill	213-545
Arista Records LLC	Dido	Sand in My Shoes	Life for Rent	340-392
UMG Recordings, Inc.	Nelly Furtado	Promiscuous	Promiscuous (single)	391-618
Zomba Recording LLC	Justin Timberlake	Cry Me a River	Justified	319-834
Warner Bros. Records Inc.	Madonna	Hung Up	Confessions on a Dance Floor	375-278